

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

JONATHAN UBBENGA,
Plaintiff,

v.

**TARLETON STATE UNIVERSITY;
LONN REISMAN; and AARON
MEADE.**

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Cause No. 4:23-cv-675

STATE DEFENDANTS' NOTICE OF REMOVAL

Defendants Tarleton State University (TSU) and Lonn Reisman (Reisman), collectively the “State Defendants”, file this Notice of Removal, pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, to remove this action filed in the 266th Judicial District Court of Erath County, Texas, to the United States District Court for the Northern District of Texas, Fort Worth Division. In support of this removal, State Defendants respectfully show the following:

I. GROUND FOR REMOVAL

Plaintiff is a former assistant baseball coach at Tarleton State University in Stephenville, TX. After his yearly contract was not renewed and his at-will employment terminated, Plaintiff filed suit for breach of contract against TSU on November 28, 2022. Plaintiff’s Original Petition had minor facial defects, and so Plaintiff filed a First Amended Petition on November 29, 2022, again alleging breach of contract. TSU answered on December 19, 2022, with a general denial.

In response to Plaintiff's pleadings, TSU filed a Plea to the Jurisdiction asserting sovereign immunity from suit. Plaintiff subsequently responded and filed a Second Amended Petition on May 30, 2023. This Second Amended Petition omitted Plaintiff's breach of contract claim and instead asserted a claim for a declaratory judgment that Plaintiff had been deprived of a property right and a second claim under 42 U.S.C. §1983 that Plaintiff had been deprived of his constitutional right to procreate. It also named two new defendants: TSU's current athletic director and Vice President for Intercollegiate Athletics, Lonn Reisman, and the head baseball coach at the time of Plaintiff's termination, Aaron Meade.¹

II. TIMELINESS OF REMOVAL

Plaintiff served TSU with a copy of Plaintiff's Second Amended Petition on May 30, 2023, and counsel for TSU and Reisman accepted service on behalf of Reisman on June 2, 2023. *See* Ex. 12 (Plaintiff's Second Amended Petition). Pursuant to 28 U.S.C. § 1446(b)(1), State Defendants timely file this Notice of Removal within thirty (30) days after service and receipt of Plaintiff's Second Amended Petition.

III. CONSENT

State Defendants have consented to this removal pursuant to 28 U.S.C. § 1446(b)(2)(A). On information and belief, Meade has not yet been served.

IV. VENUE

Venue is proper in this Court under 28 U.S.C. § 1441(a) because this district and division embrace the place where the removed state court action has been pending.

¹ Meade is no longer employed by TSU.

Specifically, the 266th Judicial District Court of Erath County, Texas, is geographically located within the Fort Worth Division of the United States District Court for the Northern District of Texas.

V. COMPLIANCE WITH PROCEDURAL REQUIREMENTS

A copy of all required documents are included with or attached to this Notice, pursuant to 28 U.S.C. § 1446(a) and the Northern District of Texas's LR 81.1. Those documents include the following:²

1. A completed civil cover sheet;
2. A supplemental civil cover sheet;
3. Signed Certificate of Interested Persons that complies with LR 3.1(c) or 3.2(e);
4. Index of all documents clearly identifying each document and the date filed in state court (**Exhibit 1**);
5. Copy of the docket sheet in the state court action (**Exhibit 2**);
6. Each document filed in the state court action, including a copy of all process, pleadings, and orders served upon State Defendants (**Exhibits 3-16**); and
7. State Defendants will promptly file a notice of this removal with the clerk of the state court where the suit has been pending, pursuant to 28 U.S.C. § 1446(d). A copy of a draft notice is attached as **Exhibit 17**.

² State Defendants are unaware of any "related case," as defined by LR 3.3(b)(3) or (b)(4).

In the event this Court subsequently identifies a defect in this Notice of Removal, State Defendants respectfully request this Court to grant leave to amend this Notice to cure the defect. *See, e.g., Acosta v. Drury Inns, Inc.*, 400 F. Supp. 2d 916, 922 (W.D. Tex. 2005) (“Defects in the form or content of the removal papers are usually not jurisdictional and may be cured by amendment after removal”); *UICI v. Gray*, No. Civ. A. 3:01CV0921L, 2002 WL 356753, at *2 (N.D. Tex. Mar. 1, 2002) (mem. op.); *Lafayette City-Parish Consol. Gov’t v. Chain Elec. Co.*, No. 11-1247, 2011 WL 4499589, at *7 (W.D. La. Sept. 23, 2011).

By filing this Notice of Removal, State Defendants do not waive any legal defenses or objections to Plaintiff’s Second Amended Petition, but expressly reserve their right to raise any and all legal defenses or objections in subsequent pleadings in this Court.

This Notice of Removal is signed pursuant to Federal Rule of Civil Procedure 11, as required under 28 U.S.C. § 1446(a).

VI. CONCLUSION

Because State Defendants have properly complied with the removal statutes set forth above, this case stands removed from the 266th Judicial District Court of Erath County, Texas, to the United States District Court for the Northern District of Texas, Fort Worth Division.

Respectfully submitted.

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***Counsel for State Defendants Tarleton State
University and Lonn Reisman***

CERTIFICATE OF SERVICE

I hereby certify that on June 29, 2023, the foregoing *State Defendants' Notice of Removal* was electronically filed using the Court's CM/ECF system, which will send notification of such filing to the following counsel of record, or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2):

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Via CM/ECF

COUNSEL FOR PLAINTIFF

/s/ Zachary L. Rhines

ZACHARY L. RHINES

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